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**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

MUR: 6995

DATE COMPLAINT FILED: 12/15/2015

DATE OF NOTIFICATION: 12/22/2015

LAST RESPONSE RECEIVED: 02/19/2016

DATE ACTIVATED: 04/08/2015

ELECTION CYCLE: 2016

EXPIRATION OF SOL: 02/26/2020 – 03/09/2020

**COMPLAINANT:**

Noah Bookbinder,  
Citizens for Responsibility and Ethics in  
Washington

**RESPONDENTS:**

Heather Oaks, LLC  
Marvin C. Schwartz  
Right to Rise USA and Charles R. Spies in his  
official capacity as treasurer  
TH Holdings LLC  
Unknown Respondent

**RELEVANT STATUTES:**

52 U.S.C. § 30122  
11 C.F.R. § 110.4(b)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint alleges that Marvin C. Schwartz and an unknown person violated the Federal Election Campaign Act of 1971, as amended (the "Act") by making two separate \$100,000 contributions in the names of TH Holdings LLC ("TH Holdings") and Heather Oaks, LLC ("Heather Oaks"), to Right to Rise USA and Charles R. Spies in his official capacity as treasurer ("Right to Rise"), an independent-expenditure-only political committee. The Complaint further alleges that TH Holdings and Heather Oaks knowingly facilitated, and Right

1 to Rise knowingly accepted, contributions in the name of another. Respondents generally assert  
2 that the LLCs had a legal right to make the contributions without regard to how they obtained the  
3 funds.

4 For the reasons set forth below, we recommend that the Commission find reason to  
5 believe that Schwartz and an Unknown Respondent made contributions in the name of another,  
6 and that TH Holdings and Heather Oaks knowingly permitted their names to be used to effect  
7 contributions made in the name of another. In addition, we recommend that the Commission  
8 take no action at this time with respect to the allegation that Right to Rise knowingly accepted  
9 contributions in the name of another. Finally, we recommend that the Commission conduct an  
10 investigation to obtain additional relevant information.

## 11 II. FACTUAL SUMMARY

12 Right to Rise is an independent-expenditure-only political committee that supported Jeb  
13 Bush's 2016 campaign for the Republican Party's presidential nomination.<sup>1</sup> On February 26,  
14 2015, Right to Rise received a \$100,000 contribution from TH Holdings.<sup>2</sup> On March 9, 2015,  
15 Right to Rise received a \$100,000 contribution from of Heather Oaks.<sup>3</sup>

16 TH Holdings is a New York limited liability company that was formed in 2010.<sup>4</sup> The  
17 Complaint asserts that the LLC is owned by Marvin C. Schwartz, a managing director of  
18 Neuberger Berman, an investment management firm based in New York City.<sup>5</sup> Shortly after its

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<sup>1</sup> Compl. ¶ 14 (Dec. 15, 2015); *see* Letter from Charles R. Spies, Treasurer for Right to Rise USA to FEC (Jan. 6, 2015).

<sup>2</sup> Compl. ¶ 16; Right to Rise USA Amended 2015 Mid-Year Rpt. at 398 (May 20, 2016).

<sup>3</sup> Compl. ¶ 16; Right to Rise USA Amended 2015 Mid-Year Rpt. at 519 (May 20, 2016).

<sup>4</sup> Compl. ¶ 19. There is no available information regarding the LLC's tax status.

<sup>5</sup> *Id.* ¶¶ 19-24 (inferring Schwartz's ownership of TH Holdings from publicly available information about his connections to the LLC). Schwartz contributed a total of \$5,400 to Bush's 2016 presidential campaign. *Id.* ¶ 22; *see*

1 formation, TH Holdings purchased a property in Suffolk County, New York for \$452,000.<sup>6</sup> The  
2 Complaint asserts that ownership of the property represents the extent of the LLC's purpose.<sup>7</sup>  
3 And, because the LLC has not sold the property, the Complaint concludes that it did not generate  
4 any income.<sup>8</sup> In a joint Response, Schwartz and TH Holdings argue that the LLC "has an  
5 identity as a donor with its own distinct right to make contributions."<sup>9</sup> They also explain that  
6 Schwartz capitalized TH Holdings to function as a real estate holding company; and they  
7 maintain that the LLC operates with a bona fide business purpose.<sup>10</sup> The Respondents state that  
8 Schwartz executed and delivered the \$100,000 contribution check on February 24, 2015 as  
9 "manager and representative" of TH Holdings and has specifically informed Right to Rise that he  
10 "personally controls and funds" the LLC.<sup>11</sup>

11 Heather Oaks is a Delaware limited liability company that was formed on February 23,  
12 2015.<sup>12</sup> The available information does not identify the LLC's owner.<sup>13</sup> Right to Rise reported  
13 receiving a \$100,000 contribution on March 9, 2015 — exactly two weeks after the LLC's

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Jeb 2016, Inc. Amended 2015 July Quarterly Rpt. at 1,344 (\$2,700 contribution for primary election); Jeb 2016, Inc. Amended 2015 October Quarterly Rpt. at 2,592 (\$2,700 contribution for general election).

<sup>6</sup> Compl. ¶ 19.

<sup>7</sup> *Id.* ¶ 24 (explaining that TH Holdings appears to have no presence on the Internet, does not appear to have a business certificate to operate as a partnership in Suffolk County, and does not appear to own another property). Schwartz apparently used a different LLC to purchase another property in the same neighborhood, and TH Holdings was seemingly named after the street its property is located (Tuthill Lane). *Id.* ¶¶ 23-24. Furthermore, there is information in the record explaining that individuals commonly use LLCs to purchase real estate in New York. *See id.* ¶ 24.

<sup>8</sup> *Id.* ¶ 24.

<sup>9</sup> Schwartz & TH Holdings Resp. at 2 (Feb. 2, 2016).

<sup>10</sup> *Id.* at 1-2.

<sup>11</sup> *Id.* The Respondents assert that TH Holdings made the contribution on February 24, 2015, whereas Right to Rise reported the contribution on February 26, 2015.

<sup>12</sup> Compl. ¶ 26.

<sup>13</sup> We also have no information about the LLC's tax status.

1 formation — in the name of Heather Oaks.<sup>14</sup> The Complaint concludes, based on the temporal  
2 proximity between the LLC's formation and the contribution, that it "did not generate sufficient  
3 income" to pay for the contribution.<sup>15</sup> The Complaint characterizes Heather Oaks as a "classic  
4 shell company . . . that exists solely as a conduit for transactions by other companies or  
5 individuals."<sup>16</sup>

6 In its Response, Heather Oaks argues that it exercised the right to make a lawful  
7 disbursement of corporate funds from its account and that the Complaint is speculative.<sup>17</sup>  
8 Heather Oaks also explains that it was formed as a subsidiary of a "longstanding business  
9 entity," and maintains that it "has been considered as an entity for certain real-estate purchases"  
10 and "plans to continue to do business in the future."<sup>18</sup> Attached to the Response is a copy of the  
11 LLC's \$100,000 contribution check to Right to Rise, apparently signed by James L.  
12 Richardson.<sup>19</sup>

13 In its Response, Right to Rise argues that the allegations are based on speculation and  
14 that the Complaint does not allege any facts that show the committee knowingly accepted a

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<sup>14</sup> *Id.*; Right to Rise USA Amended 2015 Mid-Year Rpt. at 519 (May 20, 2016).

<sup>15</sup> Compl. ¶ 28. This conclusion is buttressed by information that Heather Oaks does not appear to conduct any business, does not have any presence on the Internet, and does not appear to own any property. *Id.*

<sup>16</sup> *Id.* (citation omitted) (quotations omitted).

<sup>17</sup> Heather Oaks Resp. at 2-4 (Feb. 19, 2016).

<sup>18</sup> *Id.* at 4.

<sup>19</sup> *Id.*, Attach. The signature might indicate that the "longstanding business entity" that formed and capitalized Heather Oaks was Sellers Richardson Holman & West LLP, an Alabama accounting and consulting firm. Heather Oaks shares an address with the LLP and James L. Richardson was a named partner there. *See* Compl. ¶ 27. Sellers Richardson Holman & West LLP has since merged with McGladrey LLP under the common brand name RSM. *See id.* (citing to press release describing the merger).

1 contribution in the name of another.<sup>20</sup> The committee asserts that “[t]here was nothing  
2 suspicious on the face of either contribution.”<sup>21</sup> Furthermore, the committee maintains that it  
3 requires all donors to complete a form assuring that the contribution “will not be reimbursed by  
4 another person or entity.”<sup>22</sup>

### 5 III. LEGAL ANALYSIS

6 A contribution includes any gift, subscription, loan, advance, or deposit of money or  
7 anything of value made by any person for the purpose of influencing any election for federal  
8 office.<sup>23</sup> The term person includes, among other things, partnerships, corporations, and any other  
9 organization or group of persons.<sup>24</sup> The Act provides that “[n]o person shall make a contribution  
10 in the name of another person or knowingly permit his name to be used to effect such a  
11 contribution and no person shall knowingly accept a contribution made by one person in the  
12 name of another person.”<sup>25</sup> The Commission’s regulations also prohibit “knowingly help[ing] or  
13 assist[ing] any person in making a contribution in the name of another.”<sup>26</sup>

14 Contributions in the name of another include contributions made using a false name as  
15 well as those made using a conduit or straw donor.<sup>27</sup> Courts have uniformly rejected the notion

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<sup>20</sup> Right to Rise USA Resp. at 2 (Feb. 11, 2016). The Response emphasizes that the allegations in the Complaint are limited to a “single conditional sentence” surmising that “if” the committee accepted a contribution in the name of another, it “may” have violated the Act. *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52.

<sup>24</sup> 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10.

<sup>25</sup> 52 U.S.C. § 30122; *see* 11 C.F.R. § 110.4(b)(1)(i)-(ii),(iv).

<sup>26</sup> 11 C.F.R. § 110.4(b)(1)(iii).

<sup>27</sup> The Commission’s regulations provide illustrative examples of activities that would constitute a violation of Section 30122, including “[g]iving money or anything of value, all or part of which was provided to the

1 that “only the person who actually transmits funds . . . makes the contribution.”<sup>28</sup> The  
2 requirement that a contribution be made in the name of the “true contributor” — even if that  
3 person did not directly transmit the contribution to the committee — promotes Congress’s  
4 objective of ensuring complete and accurate disclosure.<sup>29</sup> Therefore, a person who furnishes  
5 another with funds for the purpose of contributing to a political committee is the true contributor  
6 of the contribution and must be identified as such.<sup>30</sup> Accordingly, when funds are passed from  
7 one party to another prior to a contribution, we look to the structure of the transaction itself and  
8 the arrangement between the parties to determine who in fact “made” a given contribution.<sup>31</sup>

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contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made.” *Id.* § 110.4(b)(2)(i).

<sup>28</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011); *United States v. O'Donnell*, 608 F.3d 546, 554 (9th Cir. 2010) (recognizing that straw donor contributions “undermine transparency no less than false name contributions do by shielding the identities of true contributors”).

<sup>29</sup> *O'Donnell*, 608 F.3d at 553 (concluding that “it is implausible that Congress, in seeking to promote transparency, would have understood the relevant contributor to be the intermediary who merely transmitted the campaign gift”); *Boender*, 649 F.3d at 661; *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000).

<sup>30</sup> *See United States v. Whittemore*, 776 F.3d 1074, 1079 (9th Cir. 2015); *Boender*, 649 F.3d at 660; *O'Donnell*, 608 F.3d at 550 (“In a straw donor situation, the person who actually transmits the money acts merely as a mechanism, whereas it is the original source who has made the [contribution] by arranging for his money to finance the donation.”).

The responses point to the right of corporations to make a contribution to independent-expenditure-only committees in the wake of *Citizens United v. FEC*, 558 U.S. 310 (2010) and its progeny. They view as dispositive the fact that the contributions were paid with funds belonging to the LLC. *See* Schwartz & TH Holdings Resp. at 1-2; Heather Oaks Resp. at 1-2, 4; Right to Rise Resp. at 2. Ownership of the funds used to finance a contribution, however, is irrelevant to the determination of who actually *made* the contribution. *Whittemore*, 776 F.3d at 1080.

<sup>31</sup> Where there is no direct available information regarding the transaction or arrangement between the parties, this determination is necessarily a context-specific task that requires the Commission’s experience and judgment. There are several factors that might indicate an LLC was the conduit for another person’s contribution, including the time between the LLC’s formation and the contribution, and whether the LLC generated sufficient income prior to the contribution. *See* Statement of Reasons at 12, Chairman Petersen and Comm’rs Hunter & Goodman, MUR 6485 (W Spann LLC, et al.), MURs 6487/6488 (F8, LLC, et al.), MUR 6711 (Specialty Investment Group, Inc., et al.), MUR 6930 (Michel, et al.) (Apr. 1, 2016) (“Where direct evidence . . . is lacking, the Commission will look at whether, for instance, there is evidence indicating that the corporate entity did not have income from assets, investment earnings, business revenues, or bona fide capital investments, or was created and operated for the sole purpose of making political contributions. These facts would suggest the corporate entity is a straw donor and not the true source of the contribution.”); Statement of Reasons at 4, Vice Chairman Walther and Comm’rs Ravel and Weintraub, MUR 6485 (W Spann LLC, et al.), MURs 6487/6488 (F8, LLC, et al.), MUR 6711 (Specialty Investment Group, Inc., et al.), MUR 6930 (Michel, et al.) (Apr. 1, 2016) (“An LLC cannot act on its own; it must

1           **A.     There is Reason to Believe That Marvin C. Schwartz Made a Contribution to**  
2           **Right to Rise in the Name of TH Holdings LLC**

3           The circumstances of the TH Holdings contribution, when viewed as a whole, give rise to  
4 a reasonable inference that Schwartz was the true contributor because he may have furnished the  
5 LLC with funds for the purpose of making a contribution to Right to Rise. There is no dispute  
6 that Schwartz was the only person who funded the LLC, and Schwartz states that he specifically  
7 informed Right to Rise that he personally funded the LLC. The alleged facts suggest that TH  
8 Holdings could have afforded the \$100,000 contribution to Right to Rise only if Schwartz  
9 provided the LLC with additional funding that was intended to finance the contribution.

10          TH Holdings was apparently a holding company for a single property in Suffolk County,  
11 New York that it purchased for \$452,000 in 2010.<sup>32</sup> There is no basis in the current record to  
12 infer that the contribution was the result of a surplus in funds originally designated for  
13 maintaining that single property. To the contrary, the cost to maintain the property was  
14 apparently relatively minimal compared to the \$100,000 amount of the contribution.<sup>33</sup>

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do so at the direction of a person. Where an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person, the Act and Commission regulations require that the true source — the name of the individual rather than the name of the LLC — be disclosed as the contributor.”).

<sup>32</sup> See Compl. ¶ 24. The Respondents do not dispute the Complaint's assertion that the LLC's only holding was the Suffolk County property; they simply describe the LLC as “the owner of certain real estate interests.” Schwartz & TH Holdings Resp. at 1. Moreover, there is information that the LLC was named after the street on which its property is located and that Schwartz apparently used a separate LLC to purchase a different property in the same neighborhood. *Id.* ¶¶ 23-24.

<sup>33</sup> The Respondents state that TH Holdings makes “payments for various operational purposes, including to secure property, pay applicable taxes, maintain insurance, and retain accountants to manage its books and records.” Schwartz & TH Holdings Resp. at 1. The most recent available tax roll indicates that the total property tax was only \$3,508 in 2014. Town of Southampton 2014 Tax Roll at 7,626 (Mar. 1, 2014) (*available at* Archive Center, Southampton, NY – Official Website, <http://southamptontownny.gov/Archive.aspx?AMID=36> (last visited July 11, 2016)). In addition, there is no mortgage for the property on the public record. See SCCO Virtual Office, Suffolk County Clerk's Office, <https://kiosk.suffolkcountyny.gov/KioskWeb/Default.aspx> (producing no search results for mortgages associated with Tax Map ID 0900-380.00-02.00-096.000 or liens against TH Holdings) (last visited July 11, 2016); see also Compl., Exs. G, H (indicating the Tax Map ID for 23 Tuthill Lane, the property at issue).

1 Furthermore, the LLC apparently did not generate any income from the property.<sup>34</sup> It still owns  
2 the property — a vacant parcel of land — and therefore did not sell or develop the property.<sup>35</sup>

3 Given the allegations in the Complaint and the consistent information in the available  
4 record, there is a sufficient basis to conclude that the amount of the challenged contribution  
5 exceeded the LLC's available funds absent a transfer of funds from Schwartz. Moreover, the  
6 narrow purpose of the entity and the substantial size of the contribution further tend to suggest  
7 that any such additional funding would have been intended to finance the resulting payment to  
8 Right to Rise. Although there are plausible alternative explanations, the Respondents have not  
9 provided any such information, and at this preliminary stage, none of those possibilities rebuts  
10 the reasonable inference that Schwartz was the true source of the contribution at issue, absent  
11 further investigation.<sup>36</sup> Furthermore, although the Respondents have filed a response, they do  
12 not proffer any facts that refute the allegations, such as evidence that the LLC generated income  
13 or that it originally received the \$100,000 for a purpose unrelated to making a political  
14 contribution. In contrast, although they acknowledge that Schwartz funded the LLC, they leave

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<sup>34</sup> Compl. ¶ 24.

<sup>35</sup> Town of Southampton 2016 Assessment Roll and Levy Module (Tax Map Range 473689 351.000 - 473689 381.000) at 498 (Mar. 1, 2016) *available at* <http://www.southamptontownny.gov/136/Assessment-Rolls---Final> (last visited July 22, 2016) (classifying the property as "vacant"); *see also* New York State Dep't of Taxation and Finance, Overview of the Assessment Role, [https://www.tax.ny.gov/pubs\\_and\\_bulls/orpts/tentasmtroll.htm](https://www.tax.ny.gov/pubs_and_bulls/orpts/tentasmtroll.htm) (explaining how to interpret codes on a New York state tax assessment roll). Also, there is no indication from the publicly available records, such as a mortgage lien, that the LLC used the property as collateral to take out a loan to pay for the contribution. *Supra* note 33.

<sup>36</sup> For instance, the LLC may have paid for the contribution using freed up capital that became available when the LLC altered its plans for developing the land or realized significant related cost savings. However, the Respondents stated that Schwartz capitalized the LLC to cover the expenses of obtaining and maintaining real estate interests but did not mention any capital projects. In addition, the LLC may have paid for the contribution using excess funds originally designated to purchase the property (i.e., it overestimated the sales prices). However, an excessive amount of \$100,000 represents a nearly twenty-five percent deviation from the actual sales price. In any case, further fact-finding on these points will afford the Commission the factual record necessary to conclude whether the possible violation of the Act in fact occurred.



1 unaddressed the critical inquiry whether he furnished funds to the LLC for the purpose of  
2 financing the contribution to Right to Rise.

3 In sum, the Complaint credibly alleges that Schwartz funded the LLC with the purpose  
4 that it contribute those funds to Right to Rise and was therefore the true source of that  
5 contribution. The available record is consistent with that allegation, and the Respondents do not  
6 provide facts that refute it. Accordingly, we recommend that the Commission find reason to  
7 believe that Marvin C. Schwartz violated 52 U.S.C. § 30122 by making a contribution in the  
8 name of another and that TH Holdings LLC violated 52 U.S.C. § 30122 by knowingly permitting  
9 its name to be used to effect a contribution in the name of another.

10 **B. There is Reason to Believe That an Unknown Respondent Made a**  
11 **Contribution to Right to Rise in the Name of Heather Oaks, LLC**

12 Similarly, the circumstances of the Heather Oaks contribution, when viewed as a whole,  
13 give rise to a reasonable inference that the LLC's parent company capitalized the LLC, at least in  
14 part, for the purpose of making a contribution to Right to Rise and thus should have been  
15 disclosed as to the true source of the contribution. The LLC made the \$100,000 contribution just  
16 two weeks after its formation.<sup>37</sup> And there is no indication that the LLC generated any income  
17 prior to the contribution.<sup>38</sup> Indeed, it is unclear how the LLC — which was purportedly  
18 capitalized to purchase and hold real estate — could have generated proceeds in such a short  
19 period.<sup>39</sup> Moreover, the Response is ambiguous as to whether the LLC engaged in any activity  
20 besides making the contribution: It states that the LLC “plans to continue to do business in the

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<sup>37</sup> Compl. ¶ 26.

<sup>38</sup> *Id.* ¶ 28.

<sup>39</sup> Heather Oaks Resp. at 4; *see also* Compl. ¶ 28 (suggesting that Heather Oaks operates as a shell company with no assets or business operations of its own).

1 future” and “has been *considered* as an entity for certain real-estate purchases.”<sup>40</sup> Even if the  
2 LLC was formed to engage in business beyond serving as an intermediary for the challenged  
3 contribution, that would not be inconsistent with the allegation that the LLC, in this instance,  
4 received funds specifically to contribute them to a political committee in the name of the LLC.  
5 Given those facts and the lack of any countervailing evidence in the current record, it is  
6 reasonable to conclude that the person who funded the LLC may have done so at least in part for  
7 the purpose of financing the payment to Right to Rise only two weeks later.

8 Therefore, we recommend that the Commission find reason to believe that an Unknown  
9 Respondent violated 52 U.S.C. § 30122 by making a contribution in the name of another and that  
10 Heather Oaks violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to effect a  
11 contribution in the name of another.

12 **C. Right to Rise May Have Knowingly Accepted a Contribution Made in the**  
13 **Name of Another but the Record is Insufficient to Support a Reason to**  
14 **Believe Recommendation at This Time**

15 The available information indicates that Right to Rise received information regarding the  
16 provenance of the \$100,000 contribution made in the name of TH Holdings.<sup>41</sup> In their joint  
17 Response, Schwartz and TH Holdings state that Schwartz — who executed and delivered the  
18 contribution check on behalf of TH Holdings — “informed the Committee that he personally  
19 controls and funds [TH] Holdings.”<sup>42</sup> In its Response, Right to Rise does not mention any such  
20 communication between Schwartz and a committee representative, but asserts that the

<sup>40</sup> Heather Oaks Resp. at 4 (emphasis added).

<sup>41</sup> With respect to the contribution made in the name of Heather Oaks, there are no facts tending to suggest that Right to Rise had similar information regarding the true source of that contribution.

<sup>42</sup> Schwartz & TH Holdings Resp. at 1-2.

1 contribution did not appear suspicious on its face.<sup>43</sup> Because our analysis of this question would  
2 benefit from additional facts that we may uncover during an investigation into the underlying  
3 contribution, we recommend that the Commission take no action with respect to whether Right  
4 to Rise violated 52 U.S.C. § 30122 by knowingly accepting a contribution made in the name of  
5 another.

#### 6 IV. PROPOSED INVESTIGATION

7 We propose to seek further information regarding the contributions at issue in this matter  
8 relating to: transactions between Schwartz and TH Holdings; the identity of the “longstanding  
9 business entity” that formed and capitalized Heather Oaks and that entity’s transactions with  
10 Heather Oaks; and communications between Schwartz and Right to Rise. We will attempt to  
11 conduct our investigation through voluntary means, but we recommend that the Commission  
12 authorize the use of compulsory process.

#### 13 V. RECOMMENDATIONS

- 14 1. Find reason to believe that Marvin C. Schwartz violated 52 U.S.C. § 30122 by  
15 making a contribution in the name of another;
- 16 2. Find reason to believe that TH Holdings LLC violated 52 U.S.C. § 30122 by  
17 knowingly permitting its name to be used to effect a contribution in the name of  
18 another;
- 19 3. Find reason to believe that an Unknown Respondent violated 52 U.S.C. § 30122  
20 by making a contribution in the name of another;
- 21 4. Find reason to believe that Heather Oaks, LLC violated 52 U.S.C. § 30122 by  
22 knowingly permitting its name to be used to effect a contribution in the name of  
23 another;

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<sup>43</sup> Right to Rise USA Resp. at 2. The Response also states that the committee required donors to complete a form to ensure that the contribution “will not be reimbursed by another person or entity.” *Id.* That assurance, however, does not cover the alleged violation here — that another person *advanced* the funds used to pay for a contribution made in the name of a straw donor.

5. Take no action at this time as to the allegations that Right to Rise USA and Charles R. Spies in his official capacity as treasurer violated 52 U.S.C. § 30122 by knowingly accepting a contribution in the name of another;
6. Approve the attached Factual and Legal Analyses;
7. Authorize the use of compulsory process, as necessary; and
8. Approve the appropriate letters.

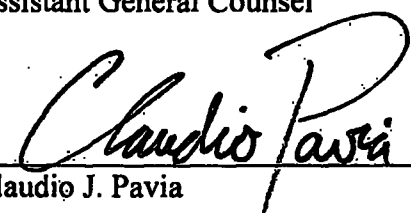
Date

8/4/2016

  
Daniel A. Petalás  
Acting General Counsel

  
Kathleen Guith  
Acting Associate General Counsel for Enforcement

  
Mark Shonkwiler  
Assistant General Counsel

  
Claudio J. Pavia  
Attorney

Attachments:

1. Factual and Legal Analysis for Marvin C. Schwartz and TH Holdings LLC
2. Factual and Legal Analysis for Heather Oaks, LLC

1  
2  
3  
**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

4 Respondents: Marvin C. Schwartz  
5 TH Holdings LLC  
6  
7

MUR 6995

8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed with the Federal Election Commission by  
10 Noah Bookbinder and Citizens for Responsibility and Ethics in Washington alleging that Marvin  
11 C. Schwartz violated the Federal Election Campaign Act of 1971, as amended (the "Act") by  
12 making a \$100,000 contribution in the name of TH Holdings LLC ("TH Holdings") to Right to  
13 Rise USA and Charles R. Spies in his official capacity as treasurer ("Right to Rise"), an  
14 independent-expenditure-only political committee. The Complaint further alleges that TH  
15 Holdings knowingly facilitated a contribution in the name of another.

16 **II. FACTUAL SUMMARY**

17 Right to Rise is an independent-expenditure-only political committee that supported Jeb  
18 Bush's 2016 campaign for the Republican Party's presidential nomination.<sup>1</sup> TH Holdings is a  
19 New York limited liability company that was formed in 2010.<sup>2</sup> On February 26, 2015, Right to  
20 Rise received a \$100,000 contribution from TH Holdings.<sup>3</sup> The Complaint asserts that the LLC  
21 is owned by Marvin C. Schwartz, a managing director of Neuberger Berman, an investment  
22 management firm based in New York City.<sup>4</sup> Shortly after its formation, TH Holdings purchased

<sup>1</sup> Compl. ¶ 14 (Dec. 15, 2015); *see* Letter from Charles R. Spies, Treasurer for Right to Rise USA to FEC (Jan. 6, 2015).

<sup>2</sup> Compl. ¶ 19. There is no available information regarding the LLC's tax status.

<sup>3</sup> Compl. ¶ 16; Right to Rise USA Amended 2015 Mid-Year Rpt. at 398 (May 20, 2016).

1 a property in Suffolk County, New York for \$452,000.<sup>5</sup> The Complaint asserts that ownership of  
2 the property represents the extent of the LLC's purpose.<sup>6</sup> And, because the LLC has not sold the  
3 property, the Complaint concludes that it did not generate any income.<sup>7</sup>

4 In a joint Response, Schwartz and TH Holdings argue that the LLC "has an identity as a  
5 donor with its own distinct right to make contributions."<sup>8</sup> They also explain that Schwartz  
6 capitalized TH Holdings to function as a real estate holding company; and they maintain that the  
7 LLC operates with a bona fide business purpose.<sup>9</sup> The Respondents state that Schwartz executed  
8 and delivered the \$100,000 contribution check on February 24, 2015 as "manager and  
9 representative" of TH Holdings and has specifically informed Right to Rise that he "personally  
10 controls and funds" the LLC.<sup>10</sup>

### 11 III. LEGAL ANALYSIS

12 A contribution includes any gift, subscription, loan, advance, or deposit of money or  
13 anything of value made by any person for the purpose of influencing any election for federal

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<sup>4</sup> *Id.* ¶¶ 19-24 (inferring Schwartz's ownership of TH Holdings from publicly available information about his connections to the LLC). Schwartz contributed a total of \$5,400 to Bush's 2016 presidential campaign. *Id.* ¶ 22; *see* Jeb 2016, Inc. Amended 2015 July Quarterly Rpt. at 1,344 (\$2,700 contribution for primary election); Jeb 2016, Inc. Amended 2015 October Quarterly Rpt. at 2,592 (\$2,700 contribution for general election).

<sup>5</sup> Compl. ¶ 19.

<sup>6</sup> *Id.* ¶ 24 (explaining that TH Holdings appears to have no presence on the Internet, does not appear to have a business certificate to operate as a partnership in Suffolk County, and does not appear to own another property). Schwartz apparently used a different LLC to purchase another property in the same neighborhood, and TH Holdings was seemingly named after the street its property is located (Tuthill Lane). *Id.* ¶¶ 23-24. Furthermore, there is information in the record explaining that individuals commonly use LLCs to purchase real estate in New York. *See id.* ¶ 24.

<sup>7</sup> *Id.* ¶ 24.

<sup>8</sup> Resp. at 2 (Feb. 2, 2016).

<sup>9</sup> *Id.* at 1-2.

<sup>10</sup> *Id.* The Respondents assert that TH Holdings made the contribution on February 24, 2015, whereas Right to Rise reported the contribution on February 26, 2015.

1 office.<sup>11</sup> The term person includes, among other things, partnerships, corporations, and any other  
2 organization or group of persons.<sup>12</sup> The Act provides that “[n]o person shall make a contribution  
3 in the name of another person or knowingly permit his name to be used to effect such a  
4 contribution and no person shall knowingly accept a contribution made by one person in the  
5 name of another person.”<sup>13</sup> The Commission’s regulations also prohibit “knowingly help[ing] or  
6 assist[ing] any person in making a contribution in the name of another.”<sup>14</sup>

7 Contributions in the name of another include contributions made using a false name as  
8 well as those made using a conduit or straw donor.<sup>15</sup> Courts have uniformly rejected the notion  
9 that “only the person who actually transmits funds . . . makes the contribution.”<sup>16</sup> The  
10 requirement that a contribution be made in the name of the “true contributor” — even if that  
11 person did not directly transmit the contribution to the committee — promotes Congress’s  
12 objective of ensuring complete and accurate disclosure.<sup>17</sup> Therefore, a person who furnishes  
13 another with funds for the purpose of contributing to a political committee is the true contributor

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<sup>11</sup> 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52.

<sup>12</sup> 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10.

<sup>13</sup> 52 U.S.C. § 30122; *see* 11 C.F.R. § 110.4(b)(1)(i)-(ii),(iv).

<sup>14</sup> 11 C.F.R. § 110.4(b)(1)(iii).

<sup>15</sup> The Commission’s regulations provide illustrative examples of activities that would constitute a violation of Section 30122, including “[g]iving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made.” *Id.* § 110.4(b)(2)(i).

<sup>16</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011); *United States v. O'Donnell*, 608 F.3d 546, 554 (9th Cir. 2010) (recognizing that straw donor contributions “undermine transparency no less than false name contributions do by shielding the identities of true contributors”).

<sup>17</sup> *O'Donnell*, 608 F.3d at 553 (concluding that “it is implausible that Congress, in seeking to promote transparency, would have understood the relevant contributor to be the intermediary who merely transmitted the campaign gift”); *Boender*, 649 F.3d at 661; *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000).

1 of the contribution and must be identified as such.<sup>18</sup> Accordingly, when funds are passed from  
2 one party to another prior to a contribution, we look to the structure of the transaction itself and  
3 the arrangement between the parties to determine who in fact “made” a given contribution.<sup>19</sup>

4 The circumstances of the TH Holdings contribution, when viewed as a whole, give rise to  
5 a reasonable inference that Schwartz was the true contributor because he may have furnished the  
6 LLC with funds for the purpose of making a contribution to Right to Rise. There is no dispute  
7 that Schwartz was the only person who funded the LLC, and Schwartz states that he specifically  
8 informed Right to Rise that he personally funded the LLC. The alleged facts suggest that TH  
9 Holdings could have afforded the \$100,000 contribution to Right to Rise only if Schwartz  
10 provided the LLC with additional funding that was intended to finance the contribution.

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<sup>18</sup> See *United States v. Whittemore*, 776 F.3d 1074, 1079 (9th Cir. 2015); *Boender*, 649 F.3d at 660; *O'Donnell*, 608 F.3d at 550 (“In a straw donor situation, the person who actually transmits the money acts merely as a mechanism, whereas it is the original source who has made the [contribution] by arranging for his money to finance the donation.”).

The Respondents point to the right of corporations to make a contribution to independent-expenditure-only committees in the wake of *Citizens United v. FEC*, 558 U.S. 310 (2010) and its progeny. They view as dispositive the fact that the contributions were paid with funds belonging to the LLC. See Resp. at 1-2. Ownership of the funds used to finance a contribution, however, is irrelevant to the determination of who actually *made* the contribution. *Whittemore*, 776 F.3d at 1080.

<sup>19</sup> Where there is no direct available information regarding the transaction or arrangement between the parties, this determination is necessarily a context-specific task that requires the Commission’s experience and judgment. There are several factors that might indicate an LLC was the conduit for another person’s contribution, including the time between the LLC’s formation and the contribution, and whether the LLC generated sufficient income prior to the contribution. See Statement of Reasons at 12, Chairman Petersen and Comm’rs Hunter & Goodman, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Michel, *et al.*) (Apr. 1, 2016) (“Where direct evidence . . . is lacking, the Commission will look at whether, for instance, there is evidence indicating that the corporate entity did not have income from assets, investment earnings, business revenues, or bona fide capital investments, or was created and operated for the sole purpose of making political contributions. These facts would suggest the corporate entity is a straw donor and not the true source of the contribution.”); Statement of Reasons at 4, Vice Chairman Walther and Comm’rs Ravel and Weintraub, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Michel, *et al.*) (Apr. 1, 2016) (“An LLC cannot act on its own; it must do so at the direction of a person. Where an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person, the Act and Commission regulations require that the true source — the name of the individual rather than the name of the LLC — be disclosed as the contributor.”).



1 TH Holdings was apparently a holding company for a single property in Suffolk County,  
2 New York that it purchased for \$452,000 in 2010.<sup>20</sup> There is no basis in the current record to  
3 infer that the contribution was the result of a surplus in funds originally designated for  
4 maintaining that single property. To the contrary, the cost to maintain the property was  
5 apparently relatively minimal compared to the \$100,000 amount of the contribution.<sup>21</sup>

6 Furthermore, the LLC apparently did not generate any income from the property.<sup>22</sup> It still owns  
7 the property — a vacant parcel of land — and therefore did not sell or develop the property.<sup>23</sup>

8 Given the allegations in the Complaint and the consistent information in the available  
9 record, there is a sufficient basis to conclude that the amount of the challenged contribution  
10 exceeded the LLC's available funds absent a transfer of funds from Schwartz. Moreover, the  
11 narrow purpose of the entity and the substantial size of the contribution further tend to suggest  
12 that any such additional funding would have been intended to finance the resulting payment to

<sup>20</sup> See Compl. ¶ 24. The Respondents do not dispute the Complaint's assertion that the LLC's only holding was the Suffolk County property; they simply describe the LLC as "the owner of certain real estate interests." Resp. at 1. Moreover, there is information that the LLC was named after the street on which its property is located and that Schwartz apparently used a separate LLC to purchase a different property in the same neighborhood. *Id.* ¶¶ 23-24.

<sup>21</sup> The Respondents state that TH Holdings makes "payments for various operational purposes, including to secure property, pay applicable taxes, maintain insurance, and retain accountants to manage its books and records." Resp. at 1. The most recent available tax roll indicates that the total property tax was only \$3,508 in 2014. Town of Southampton 2014 Tax Roll at 7,626 (Mar. 1, 2014) (*available at* Archive Center, Southampton, NY – Official Website, <http://southamptontownny.gov/Archive.aspx?AMID=36> (last visited July 11, 2016)). In addition, there is no mortgage for the property on the public record. See SCCO Virtual Office, Suffolk County Clerk's Office, <https://kiosk.suffolkcountyny.gov/KioskWeb/Default.aspx> (producing no search results for mortgages associated with Tax Map ID 0900-380.00-02.00-096.000 or liens against TH Holdings) (last visited July 11, 2016); see also Compl., Exs. G, H (indicating the Tax Map ID for 23 Tuthill Lane, the property at issue).

<sup>22</sup> Compl. ¶ 24.

<sup>23</sup> Town of Southampton 2016 Assessment Roll and Levy Module (Tax Map Range 473689 351.000 - 473689 381.000) at 498 (Mar. 1, 2016) *available at* <http://www.southamptontownny.gov/136/Assessment-Rolls---Final> (last visited July 22, 2016) (classifying the property as "vacant"); see also New York State Dep't of Taxation and Finance, Overview of the Assessment Role, [https://www.tax.ny.gov/pubs\\_and\\_bulls/orpts/tentasmtrroll.htm](https://www.tax.ny.gov/pubs_and_bulls/orpts/tentasmtrroll.htm) (explaining how to interpret codes on a New York state tax assessment roll). Also, there is no indication from the publicly available records, such as a mortgage lien, that the LLC used the property as collateral to take out a loan to pay for the contribution. *Supra* note 21.

1 Right to Rise. Although there are plausible alternative explanations, the Respondents have not  
2 provided any such information, and at this preliminary stage, none of those possibilities rebuts  
3 the reasonable inference that Schwartz was the true source of the contribution at issue, absent  
4 further investigation.<sup>24</sup> Furthermore, although the Respondents have filed a response, they do  
5 not proffer any facts that refute the allegations, such as evidence that the LLC generated income  
6 or that it originally received the \$100,000 for a purpose unrelated to making a political  
7 contribution. In contrast, although they acknowledge that Schwartz funded the LLC, they leave  
8 unaddressed the critical inquiry whether he furnished funds to the LLC for the purpose of  
9 financing the contribution to Right to Rise.

10 In sum, the Complaint credibly alleges that Schwartz funded the LLC with the purpose  
11 that it contribute those funds to Right to Rise and was therefore the true source of that  
12 contribution. The available record is consistent with that allegation, and the Respondents do not  
13 provide facts that refute it. Accordingly, the Commission finds reason to believe that Marvin C.  
14 Schwartz violated 52 U.S.C. § 30122 by making a contribution in the name of another and that  
15 TH Holdings LLC violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to  
16 effect a contribution in the name of another.

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<sup>24</sup> For instance, the LLC may have paid for the contribution using freed up capital that became available when the LLC altered its plans for developing the land or realized significant related cost savings. However, the Respondents stated that Schwartz capitalized the LLC to cover the expenses of obtaining and maintaining real estate interests but did not mention any capital projects. In addition, the LLC may have paid for the contribution using excess funds originally designated to purchase the property (i.e., it overestimated the sales prices). However, an excessive amount of \$100,000 represents a nearly twenty-five percent deviation from the actual sales price. In any case, further fact-finding on these points will afford the Commission the factual record necessary to conclude whether the possible violation of the Act in fact occurred.

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**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

4 Respondent: Heather Oaks, LLC

MUR 6995

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6  
7 **I. INTRODUCTION**

8 This matter was generated by a complaint filed with the Federal Election Commission by  
9 Noah Bookbinder and Citizens for Responsibility and Ethics in Washington alleging that an  
10 unknown person violated the Federal Election Campaign Act of 1971, as amended (the "Act") by  
11 making a \$100,000 contribution in the name of Heather Oaks, LLC ("Heather Oaks") to Right to  
12 Rise USA and Charles R. Spies in his official capacity as treasurer ("Right to Rise"), an  
13 independent-expenditure-only political committee. The Complaint further alleges that Heather  
14 Oaks knowingly facilitated a contribution in the name of another.

15 **II. FACTUAL SUMMARY**

16 Right to Rise is an independent-expenditure-only political committee that supported Jeb  
17 Bush's 2016 campaign for the Republican Party's presidential nomination.<sup>1</sup> Heather Oaks is a  
18 Delaware limited liability company that was formed on February 23, 2015.<sup>2</sup> The available  
19 information does not identify the LLC's owner.<sup>3</sup> Right to Rise reported receiving a \$100,000  
20 contribution on March 9, 2015 — exactly two weeks after the LLC's formation — in the name of  
21 Heather Oaks.<sup>4</sup> The Complaint concludes, based on the temporal proximity between the LLC's  
22 formation and the contribution, that it "did not generate sufficient income" to pay for the

<sup>1</sup> Compl. ¶ 14 (Dec. 15, 2015); see Letter from Charles R. Spies, Treasurer for Right to Rise USA to FEC (Jan. 6, 2015).

<sup>2</sup> Compl. ¶ 26.

<sup>3</sup> We also have no information about the LLC's tax status.

<sup>4</sup> *Id.*; Right to Rise USA Amended 2015 Mid-Year Rpt. at 519 (May 20, 2016).

1 contribution.<sup>5</sup> The Complaint characterizes Heather Oaks as a “classic shell company . . . that  
2 exists solely as a conduit for transactions by other companies or individuals.”<sup>6</sup>

3 In its Response, Heather Oaks argues that it exercised the right to make a lawful  
4 disbursement of corporate funds from its account and that the Complaint is speculative.<sup>7</sup> Heather  
5 Oaks also explains that it was formed as a subsidiary of a “longstanding business entity,” and  
6 maintains that it “has been considered as an entity for certain real-estate purchases” and “plans to  
7 continue to do business in the future.”<sup>8</sup> Attached to the Response is a copy of the LLC’s  
8 \$100,000 contribution check to Right to Rise, apparently signed by James L. Richardson.<sup>9</sup>

9 **III. LEGAL ANALYSIS**

10 A contribution includes any gift, subscription, loan, advance, or deposit of money or  
11 anything of value made by any person for the purpose of influencing any election for federal  
12 office.<sup>10</sup> The term person includes, among other things, partnerships, corporations, and any other  
13 organization or group of persons.<sup>11</sup> The Act provides that “[n]o person shall make a contribution  
14 in the name of another person or knowingly permit his name to be used to effect such a  
15 contribution and no person shall knowingly accept a contribution made by one person in the

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<sup>5</sup> Compl. ¶ 28. This conclusion is buttressed by information that Heather Oaks does not appear to conduct any business, does not have any presence on the Internet, and does not appear to own any property. *Id.*

<sup>6</sup> *Id.* (citation omitted) (quotations omitted).

<sup>7</sup> Resp. at 2-4 (Feb. 19, 2016).

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.*, Attach. The signature might indicate that the “longstanding business entity” that formed and capitalized Heather Oaks was Sellers Richardson Holman & West LLP, an Alabama accounting and consulting firm. Heather Oaks shares an address with the LLP and James L. Richardson was a named partner there. See Compl. ¶ 27. Sellers Richardson Holman & West LLP has since merged with McGladrey LLP under the common brand name RSM. See *id.* (citing to press release describing the merger).

<sup>10</sup> 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52.

<sup>11</sup> 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10.

1 name of another person.”<sup>12</sup> The Commission’s regulations also prohibit “knowingly help[ing] or  
2 assist[ing] any person in making a contribution in the name of another.”<sup>13</sup>

3 Contributions in the name of another include contributions made using a false name as  
4 well as those made using a conduit or straw donor.<sup>14</sup> Courts have uniformly rejected the notion  
5 that “only the person who actually transmits funds . . . makes the contribution.”<sup>15</sup> The  
6 requirement that a contribution be made in the name of the “true contributor” — even if that  
7 person did not directly transmit the contribution to the committee — promotes Congress’s  
8 objective of ensuring complete and accurate disclosure.<sup>16</sup> Therefore, a person who furnishes  
9 another with funds for the purpose of contributing to a political committee is the true contributor  
10 of the contribution and must be identified as such.<sup>17</sup> Accordingly, when funds are passed from

<sup>12</sup> 52 U.S.C. § 30122; *see* 11 C.F.R. § 110.4(b)(1)(i)-(ii),(iv).

<sup>13</sup> 11 C.F.R. § 110.4(b)(1)(iii).

<sup>14</sup> The Commission’s regulations provide illustrative examples of activities that would constitute a violation of Section 30122, including “[g]iving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made.” *Id.* § 110.4(b)(2)(i).

<sup>15</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011); *United States v. O’Donnell*, 608 F.3d 546, 554 (9th Cir. 2010) (recognizing that straw donor contributions “undermine transparency no less than false name contributions do by shielding the identities of true contributors”).

<sup>16</sup> *O’Donnell*, 608 F.3d at 553 (concluding that “it is implausible that Congress, in seeking to promote transparency, would have understood the relevant contributor to be the intermediary who merely transmitted the campaign gift”); *Boender*, 649 F.3d at 661; *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000).

<sup>17</sup> *See United States v. Whittemore*, 776 F.3d 1074, 1079 (9th Cir. 2015); *Boender*, 649 F.3d at 660; *O’Donnell*, 608 F.3d at 550 (“In a straw donor situation, the person who actually transmits the money acts merely as a mechanism, whereas it is the original source who has made the [contribution] by arranging for his money to finance the donation.”).

The Respondent points to the right of corporations to make a contribution to independent-expenditure-only committees in the wake of *Citizens United v. FEC*, 558 U.S. 310 (2010) and its progeny. They view as dispositive the fact that the contributions were paid with funds belonging to the LLC. *See* Resp. at 1-2, 4. Ownership of the funds used to finance a contribution, however, is irrelevant to the determination of who actually made the contribution. *Whittemore*, 776 F.3d at 1080.

1 one party to another prior to a contribution, we look to the structure of the transaction itself and  
2 the arrangement between the parties to determine who in fact “made” a given contribution.<sup>18</sup>

3 The circumstances of the Heather Oaks contribution, when viewed as a whole, give rise  
4 to a reasonable inference that the LLC’s parent company capitalized the LLC, at least in part, for  
5 the purpose of making a contribution to Right to Rise and thus should have been disclosed as to  
6 the true source of the contribution. The LLC made the \$100,000 contribution just two weeks  
7 after its formation.<sup>19</sup> And there is no indication that the LLC generated any income prior to the  
8 contribution.<sup>20</sup> Indeed, it is unclear how the LLC — which was purportedly capitalized to  
9 purchase and hold real estate — could have generated proceeds in such a short period.<sup>21</sup>  
10 Moreover, the Response is ambiguous as to whether the LLC engaged in any activity besides  
11 making the contribution: It states that the LLC “plans to continue to do business in the future”  
12 and “has been *considered* as an entity for certain real-estate purchases.”<sup>22</sup> Even if the LLC was

<sup>18</sup> Where there is no direct available information regarding the transaction or arrangement between the parties, this determination is necessarily a context-specific task that requires the Commission’s experience and judgment. There are several factors that might indicate an LLC was the conduit for another person’s contribution, including the time between the LLC’s formation and the contribution, and whether the LLC generated sufficient income prior to the contribution. See Statement of Reasons at 12, Chairman Petersen and Comm’rs Hunter & Goodman, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Michel, *et al.*) (Apr. 1, 2016) (“Where direct evidence . . . is lacking, the Commission will look at whether, for instance, there is evidence indicating that the corporate entity did not have income from assets, investment earnings, business revenues, or bona fide capital investments, or was created and operated for the sole purpose of making political contributions. These facts would suggest the corporate entity is a straw donor and not the true source of the contribution.”); Statement of Reasons at 4, Vice Chairman Walther and Comm’rs Ravel and Weintraub, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Michel, *et al.*) (Apr. 1, 2016) (“An LLC cannot act on its own; it must do so at the direction of a person. Where an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person, the Act and Commission regulations require that the true source — the name of the individual rather than the name of the LLC — be disclosed as the contributor.”).

<sup>19</sup> Compl. ¶ 26.

<sup>20</sup> *Id.* ¶ 28.

<sup>21</sup> Resp. at 4; see also Compl. ¶ 28 (suggesting that Heather Oaks operates as a shell company with no assets or business operations of its own).

<sup>22</sup> Resp. at 4 (emphasis added).

1 formed to engage in business beyond serving as an intermediary for the challenged contribution,  
2 that would not be inconsistent with the allegation that the LLC, in this instance, received funds  
3 specifically to contribute them to a political committee in the name of the LLC.

4         Given those facts and the lack of any countervailing evidence in the current record, it is  
5 reasonable to conclude that the person who funded the LLC may have done so at least in part for  
6 the purpose of financing the payment to Right to Rise only two weeks later. Therefore, the  
7 Commission finds reason to believe that Heather Oaks violated 52 U.S.C. § 30122 by knowingly  
8 permitting its name to be used to effect a contribution in the name of another.